

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

United States of America,)	Cr. No. 4:00-67-CMC
)	
-versus-)	
)	OPINION and ORDER
)	
Ronald Eustache,)	
)	
Defendant.)	
_____)	

This matter is before the court on Defendant's motion for "independent action" under Federal Rule of Civil Procedure 60(d)(1). ECF No. 357. Defendant contends that he is entitled to relief because the Fourth Circuit Court of Appeals "failed to resolve his motion pursuant to 28 U.S.C. § 2244(b)(2)(B)(ii) on the merits." *Id.* at 2.

Defendant's motion fails for two reasons. First, to the extent that Defendant seeks relief under Federal Rule of Civil Procedure 60(d)(1), the phrase "independent action" in this Rule refers to a separate civil action, not separate, or "independent," action by this court. Second, this court has no authority to review an order of the Fourth Circuit Court of Appeals.

Defendant's motion is **denied**.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
April 30, 2013